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Policy Options

CANADIAN INITIATIVE TO
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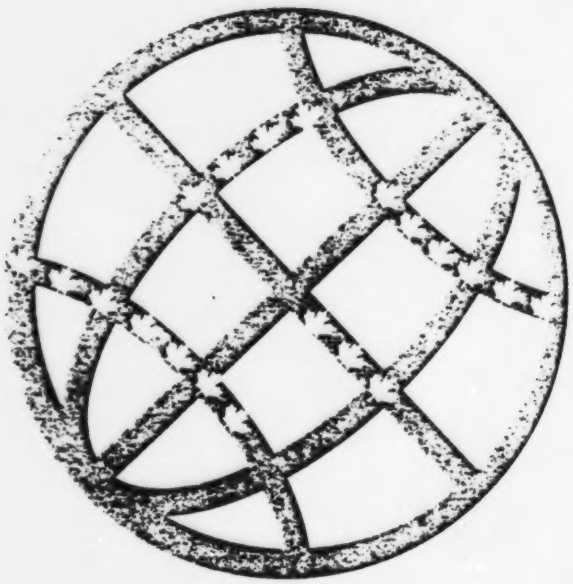

125 Sussex Drive, Ottawa, Ontario K1A 0G2
Phone: 613 944 4150 (Communications) 613 944 0391 (Project/Fund Information) 613 992 3690 (Events Information)
Fax: 613 944 0687 **Web-site: http://www.cfp-pec.gc.ca**

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125 Sussex Dr. Ottawa, Ontario K1A 0G2

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Inter-Departmental Meeting on a
Canadian Initiative to Deal with Small Arms

6 November 1997

Rapporteur's Report

Prepared by Natalie Mychajlyszyn
Doctoral Candidate, Department of Political Studies, Queen's University

SUMMARY

The issue of small arms is multifaceted and complex, straddling as it does criminal and security concerns. Efforts to deal with the issue are hampered by the complexity of the issue in addition to intra-state, state, regional and inter-state considerations. Nonetheless, initiatives on the small arms issue have been pursued to varying degrees of accomplishment. Opportunity exists for the launch of a Canadian contribution to fill the gaps that yet remain.

INTRODUCTION

In his address to the United Nations General Assembly on 25 September 1997, the Minister of Foreign Affairs indicated a need to attend to cross-cutting issues as part of a larger effort to contend with intra-state conflict and the development of human security. The Minister identified small arms as one such issue deserving of greater focus and a more prevalent Canadian contribution. Representatives from the Departments of Foreign Affairs and International Trade, Defence, Justice, the RCMP and the Canadian International Development Agency met to discuss the status of and current responses to the small arms issue as well as to identify areas for further initiatives, obstacles and policy options. This report summarises these discussions.

I. FRAMING THE ISSUE

The complexity and breadth of the small arms issue are well-appreciated. The issue has received considerable attention in policy-oriented think-pieces and is more often discussed in inter-governmental, non-governmental and academic circles. Several elements of the issue that stem from these dialogues need to be emphasised and considered in the process of developing a Canadian initiative.

A. Definition

While there is no agreement on what small arms precisely entail, there is a basic level of understanding of small arms as those weapons ranging from shot-guns to mortars and including semi-automatics, fully-automatics, heavy machine guns and rocket-launchers. Included in this range are weapons with a strong dual-use capacity in both non-military and military situations. For law enforcement purposes, small arms are commonly referred to as "firearms." The United Nations has developed an inventory ofweapons considered small arms as has the Wassenaar Arrangement and the OAS Convention. The size of ammunition is also an important consideration of what is considered to be a small arm.

B. Criminal Component

The criminal component of the small arms issue arises from the nature of certain small arms consumers and from specific aspects of their transfer. In simple terms, concern with the criminal component can be summarised as the wrong weapons in the wrong hands. First, small arms are preferred weapons among criminal actors such as drug-traffickers and terrorists. Second, domestic legislation of several states that prohibit the non-military possession of military-style weapons is not enforced. Third, a portion of the trafficking is carried out illicitly and outside of established and government-regulated processes. Fourth, small arms that are licitly transferred to the military are commonly sold to criminal actors or other civilians by corrupt military personnel who are motivated by profit or political ambitions. In essence, small arms have become a prevalent commodity of illicit trafficking given their popularity among criminal actors such as drug-traffickers and terrorists.

C. Security Component

Areas of potential or actual conflict attract higher levels of arms, both illicit and licit, which destabilises an already precarious situation, escalates the conflict and hampers efforts to manage and settle the conflict. These conflicts are more often intra-state, rather than inter-state, thus, changing the character of the focus immediately as it is associated with an internal breakdown of law and order. If the conflict reaches settlement, the small arms often remain in the hands of non-military personnel, are transferred across borders to other hot-spots for profit, or fall into the hands of criminal actors. While the arms continue to circulate, efforts to build peace in a post-conflict environment are seriously challenged and undermined, increasing the likelihood of continued instability.

D. Additional Areas of Concern

The criminal and security components of the small arms issue are inter-linked with each other as well as with good governance and development. This inter-linkage complicates the task of precisely defining the issue, as well as identifying the specific relationship and overlap of small arms as a security/arms control issue and a illicit firearms trafficking issue. It also impacts on efforts to determine what is relevant and the key priority.

The issue encompasses small arms that currently exist and in circulation in addition to small arms that are not yet manufactured.

The export and import of small arms in many countries is controlled not by civilians but by the military.

While the issue of small arms is certainly global in its scope, primary concern lies with those regions that are recent witnesses to conflict. These include Latin/Central America, Central Africa, Southern Africa, the Balkans and South Asia. Affected states in these regions also lack sufficient capacity and resources to legislate laws (current and future) regarding small arms let alone enforce them. At the same time, each of these regions demonstrates its own unique character with respect to the small arms issue. For instance, South Asia is both a source of small arms supply as well as demand. Both South Asia and Central Africa have witnessed intra- as well as inter-state conflict. Central Africa suffers immeasurably from the constant unregulated flow of armed, organised groups across state borders. However, all of the regions in their own way are experiencing the detrimental consequences of small arms on peacebuilding efforts in which Canada is playing one role or another.

Governments with poor human rights records are among the abusers of small arms, as their forces use these weapons and force to kill and repress civilians.

Innumerable non-state groups operating at the sub-state or transnational levels are the primary sources of illicit demand for and use of small weapons. These groups are either criminally or politically motivated. Some such groups acquire small arms for self-defence against governments who use the same arms to repress political opposition. In essence, small arms are used by non-state actors to carry out violence in pursuit of criminal or political objectives.

Small arms are produced by arms-manufacturing firms located across 70 countries.

Standardised regulation of licit transfers do not exist nor are there transparency mechanisms in place to monitor a post-transfer inventory or catalogue of small arms. Likewise, there is no international registry of small arms in place.

Efforts to reach agreement on the issue are hampered to varying degrees by the following:

- A minimalist approach to the issue is favoured by certain governments who do not want their conduct of foreign policy unreasonably constrained. Such states seek to retain the capacity to export small arms wherever and whenever necessary in order to pursue their national interests and would oppose excessive controls and regulation of small arms exports.

- There is also strong opposition among certain governments to making the transfer process of small arms more transparent and to the establishment of an international small arms registry due to the interests of powerful domestic constituencies.

- There is disagreement among governments on the extent to which the issue should be framed as a human rights issue.

- The large number of states in which arms-manufacturers are situated complicates the development of consensus for supply-targeted initiatives.

- Controlling the legal transfer of small arms is difficult, given the variations of domestic legislation in place regarding import and export permits and documentation.

- A significant discrepancy exists between the North and South regarding how the small arms issue is to be framed, as was particularly evident at the UN Panel of Experts. For instance, the North allocates equal responsibility to both suppliers and clients while the South views the issue as supply-driven. Consequently, the establishment of a basic starting point to deal with the issue is affected.

- The amount of resources and type of capacity required to implement a small arms initiative are undetermined.

- NGOs such as the NRA are expected to oppose a small arms initiative and to be active globally and domestically in influencing government positions if the issue is not properly and accurately defined with a law enforcement component, thereby allowing the lobby to misrepresent the issue as the disarming of civilians and removal of their right to self-protection.

II. SELECTIVE RESPONSES AND INITIATIVES

A. Individual Initiatives

1. Canada

The Canadian Peacebuilding Initiative managed by CIDA already carries out activities in line with disarmament such as supporting the demobilisation of child soldiers, the reintegration of former

combatants into society, and women's issues.

A Canadian proposal to include in settlement agreements the post-conflict demobilisation of forces and capturing of small arms by UN peacekeepers was accepted and included in the recommendations of the UN Panel of Experts on Small Arms (see below).

DFAIT will be playing an active role to have the concluding document of the UN Panel of Experts on Small Arms endorsed and the recommendations implemented. Canada also supports the UNGA item "Consolidation of Peace through Practical Disarmament Measures" and the UN Disarmament Commission discussions on illicit transfers of conventional weapons as starting points for generating international consensus on small arms.

DFAIT has also been an active participant and supporter in the negotiations on the OAS Inter-American Convention (see below).

DND has supported Canada's participation on the UN Panel of Experts on Small Arms, and supports in particular the proposal to include the supervision of demobilisation and disarmament in peacekeeping activities. In addition, DND has participated in international efforts considering the possibility of reducing the use of inhumane weapons and ammunition in combat situations in order to avoid unnecessary injuries. Progress in these efforts is hampered by a lack of information on the necessity of such weapons and ammunition in combat and by the widespread use of these weapons.

The Department of Justice is preparing a policy think-piece on the issue of small arms and has participated in the work of the International Commission on Crime and Criminal Justice.

2. Germany
The German government has unsuccessfully sought the inclusion of a human rights dimension into the process since those killed by small arms include civilians killed by government forces.

3. Costa Rica
Former Costa Rican president Arias is promoting a code of conduct on small arms which may at some point in the future be tabled in the UN.

B. Regional Initiatives

4. OAS Inter-American Convention Against the Illicit Manufacturing and Trafficking of Firearms, Ammunition, Explosives and Other Related Materials. The Convention does not address small arms as a disarmament issue but as a law-enforcement and supply issue. Separating out the issue is argued to have been a facilitating factor in reaching consensus.

5. Northern Ireland Peace Process
Part of the negotiations of the peace process focus on the decommissioning of armed groups active in the conflict.

6. Other initiatives have also been pursued in Southern Africa and Central Africa.

C. Global Initiatives

6. OECD Development Assistance Committee
The DAC is concerned at a very basic level with conflict and its impact on peaceful development. It is in the process of developing guidelines that promote peaceful development and peace-building, such as the influence of military expenditures.

7. Wassenaar Arrangement
The Wassenaar Arrangement is a supplier control regime and not comprehensive in its participants. For instance, several critical arms exporting states such as India and Pakistan do not participate. The Wassenaar Arrangement is based on a export-control list that regulates who receives what sensitive commodities such as weapons and ammunitions.

8. United Nations Panel of Government Experts on Small Arms
The panel framed the issue as a matter pertaining to conflict-areas in which the United Nations is involved. The panel's final document consisting of two sets of recommendations, one focusing on reduction and the other on prevention, is not an executing document.

9. United Nations Disarmament Commission
The UNDC is examining the use of practical disarmament measures as a step towards a lasting peace in post-conflict situations.

E. Positive Elements

Although not very prominent or comprehensive, the political will to act on the issue of small arms is there as evident in the several initiatives being carried out to deal with the problem. Indeed, there is optimism regarding a measure of success given the co-operation and enthusiasm generated and the precedent established by other initiatives.

Scope for action exists and the process for arriving at an agreement on the specific initiative to be pursued does not need to be too complicated given that the basic concern is with the illicit use of small arms and with licit trafficking becoming illicit, and other aspects of the issue stem from this. More simply, the concerns lies with the lack of assurance regarding the legal transfers of small arms not falling into the hands of non-military personnel.

There is a good possibility of building on a law-enforcement approach since a consensus is already established as evident in the OAS initiative. Linkages can be explored between the law-enforcement and arms control and disarmament approaches for greater productivity.

Domestic, law-enforcement concerns of Northern countries revolving around the issue of domestic criminal activity and small arms proliferation in non-military circles is driving the call to take action on a law-enforcement basis and suggests the possibility of North-North co-operation regarding information exchange in this area.

There is better opportunity for agreement if initiatives focus on the transnational level rather than focusing on the domestic elements of the small arms problem which leads to complicated issues of sovereignty and significant variations in domestic legislation regarding gun control. While the law-enforcement approach ultimately is concerned with the domestic level, there is a strong transnational component to it as evident in the illicit trafficking of small arms.

There is a good opportunity of building on the Canadian recommendation at the UN Panel of Experts on Small Arms to institutionalise and systematise demobilisation, disarmament and international supervision of these activities as elements of intra-state conflict settlement agreements. Thus far, such activities are instead included in settlement agreements on an ad hoc basis.

There is international consensus that, for economic and social development to take place, there must be internal peace and a stable society.

Resources are available through the Canadian Peacebuilding Initiative and the Peacebuilding Fund.

Ultimately, radical opponents of a potential small arms initiative are not expected to be significantly influential. Such fringe elements have been marginalised in the past regarding other arms control and disarmament initiatives at no or little cost to the effort.

Elements of an initiative that would be difficult to oppose include an emphasis on the protection of innocent civilians from criminal elements in society and the inhumanity of child soldiers.

III. CANADA'S CONTRIBUTION: POLICY OPTIONS

A. Elements of a Canadian Initiative

A Canadian initiative should emphasise and promote Canadian values and foreign policy interests.

To be effective and well-received, the objective and process of a Canadian initiative should be specific, limited, practical, and do-able. Decisions must be made on whether the focus is on the use and abuse of small arms or on minimising the consequences of the flow of such arms. What exactly is to be achieved should also be clear: Is the end-product a treaty? A legally-binding convention?

A Canadian initiative should emphasise either a law-enforcement approach or an arms control and disarmament perspective. How the issue is framed in the first place will determine the approach to be followed.

At the same time, a Canadian initiative should try to be multifaceted in order to cover as many aspects as possible. This should not be pursued, however, at the expense of cohesion or effectiveness. Limited yet effective steps are preferred over large-scale plans that risk unmanageability and failure.

A Candian initiative must be developed with caution so as to avoid focusing too much on philosophical problems at the expense of instrumental and technical sides of the issue.

Both the supply and demand aspects of the issue need to be addressed in order to be effective. Furthermore, it should not be framed as a "proliferation" matter which unwittingly targets suppliers and countries, but instead as concern with the "movement" of small arms, whether across borders or from military to civilian hands.

A Canadian initiative must engage the mainstream public in its endeavour, by seeking either its support or its active participation. One area that could be pursued in this regard is the deployment of Canadian peacekeepers to post-conflict situations that remain unstable given the proliferation of small arms among armed organised groups, thereby endangering Canadian soldiers.

A Canadian initiative should build on other on-going initiatives and successes at the international, regional and intra-state levels. It should work in concert with these other initiatives to ensure complementarity, not competition or repitition. Coalitions between IGOs and NGOs, including across traditional groups and the donor community, should be encouraged.

A Canadian initiative must demonstrate cohesiveness and co-ordination among Canadian governmental departments with clear responsibilities assigned accordingly.

Domestic opposition to a small arms initiative is expected although not at significant levels. Domestic opponents to gun control are not influential beyond a local level and have only limited impact in rural

communities and in the prairies. Furthermore, the domestic arms manufacturing lobby is not influential given the small role the Canadian arms industry plays in the global arms market as a supplier and a recipient. For instance, Canada exports only $30 million annually of arms and only two firms actively produce small arms. At the same time, this factor may weaken the credibility and influence of a Canadian initiative that focuses solely on the transfer of small arms. It should be noted that the small number and value of arms produced are of high quality. Canada does have a legitimate interest in maintaining a national production base for its own purposes. However, Canada is not without guilt regarding the transfer of small arms in questionable circumstances.

Punitive measures must also be included to enforce the agreement.

Amnesty measures and gun buy-backs should be considered to make an initiative attractive for targeted actors.

B. Policy Options

1. Pursuit of an agreement among states that acquisitions of new light weapons, primarily small arms to upgrade/replace existing items be offset by destruction [under international supervision or observation] of older equivalent items.

2. Pursuit of regional small arms conventions based on the model established by the OAS Convention.

3. Bilateral transparency agreements linked with mutual customs agreements covering import-exports of small arms and standardisation of permit documents.

4. Embargoes to prevent the transfer of small arms.

5. Development of aid packages which target capacity building and infrastructure to assist with the demand side of the equation.

6. Educate states who are not fully appreciative of the issue and therefore strengthen the coalition.

7. Norm-building at the UN through a declaratory instrument that sets out criteria and/or circumstances under which states would refuse to export arms to another state. Or, such a declaratory instrument could list the conditions under which states would export arms. These criteria and circumstances would incorporate law-enforcement and/or arms control/disarmament aspects of the issue. The groundwork is then established for an eventual binding legal instrument.

8. A similar declaratory instrument could be developed that targets small arms currently in circulation in the state in question and link aid packages with the destruction of small arms.

9. Buy-back programs in post-conflict regions to avoid the potentially destabilising spread of small arms to other hot-spots.

10. Provision of security or peacekeepers for a period of time after demobilisation or disarmament.

Roundtable on a Canadian Initiative to deal with Small Arms

Canadian government departments, NGOs and international experts met on November 18, 1997 to discuss small arms questions and problems. In summary, participants felt that current proposals for dealing with the control of small arms are ineffective or very limited in scope. To overcome these limitations and offer a more comprehensive response, it was felt that a Canadian initiative could be comprised of the following key elements: "coordination" of the diverse initiatives already undertaken; coalition-building among states, civil societies, NGOs, IGOs; norm-building through the stigmatisation of small arms; and a development component.

Reaction to Policy Options in Circulation

Some participants in the roundtable expressed their concerns about various policy options being considered to one degree or another by Canadian and other initiatives. There was strong concern with a treaty as the end-goal of a new initiative since signatories are automatically limited to states - non-state actors, who play a prominent role in the small arms issue and any possible initiatives, are excluded.

It was also felt that codes of conduct would be problematic and likely ineffective given that again, they rely on the capacity of states to ensure compliance with the codes. Many of the states experiencing the negative consequences of small arms lack the capacity to implement the codes.

There was also some opposition to a small arms policy that focuses on supply and demand. First, the distinction is not that simple and the issue of small arms is much more cross-cutting than is otherwise suggested. Second, framing the issue as supply and demand can be misleading as these terms are prominent in the arms control and disarmament literature which also emphasise the state as the primary actor. As a result, the non-state actor's role in the small arms problem and solution is neglected once again. Furthermore, the small arms issue is automatically considered as an arms control matter which in itself is limiting. Third, the issue of small arms itself was argued to be inadequately understood through the supply and demand framework, missing entirely as it does the key element of transfers. Finally, proposals targeting only the supply-side of the issue were felt to be discriminatory, especially by those who argue the problem is equally, if not more, driven by demand. Likewise, there was also opposition to initiatives that distinguish between licit and illicit trafficking. Some participants felt that such a distinction restricts the scope of any potential initiative.

Participants at the roundtable were divided on the question of embargoes and sanctions as policy options for dealing with the issue of small arms. They felt that these options would ultimately be ineffective as they are imposed by and affect only states. As a result, non-state actors, both domestic and transnational, would not be directly affected by embargoes and sanctions.

Similarly, some participants felt that buy-backs and amnesties would be ineffective as only the least desired weapons are turned in. Such programs are especially ineffective in areas where police are themselves corrupt or lack the capacity to carry out these policies.

Proposed Components of a new Canadian-led Initiative

Coordination

A Canadian initiative would coordinate interests, activities and the various ad-hoc initiatives within one common framework in order to make the process more durable.

Initiatives currently requiring coordination are taking place at different levels: international, regional, sub-regional, national and local. Coordination efforts could be undertaken at a specific level to support those at another. In particular, coordination efforts could also draw from other regional initiatives and build on current regional proposals. A regional approach may be a preferred starting point as it encompasses several layers (sub-regional, national and local), the international level can be more directly reached from it, and, consensus on the small arms issue already exists at this level. Furthermore, political will at this level is especially strong if the issue of small arms were linked to development issues. Through this linkage, more related issues could be attended to than if the issue was linked to security questions.

The unpopular possibility of dealing with rogue actors in post-conflict situations in order to carry out initiatives could be overcome by involving respected NGOs who would inject credibility into the process. It could also be overcome by putting the onus on the rogue actor to offer its services and willingly participate in the initiative. And, if the initiative involves a capacity-building element, the onus would also placed on the rogue actor to request such assistance.

Participants recognized that the small arms issue does play a significant role in human security. However, because human security is viewed as a "soft" issue that is not easily quantifiable unlike traditional state-based national security, difficulties could be experienced in building consensus on a human security-based small arms issue.

Suggested bridges that could link different layers and levels include: - building a consensus on measures for tracking the movement of small arms which joins the domestic and international levels; - women's groups which are actively represented at all levels of the multi-level problem, although they are not active to the same degree across regions or states.

A potential strategy that received strong support at the roundtable was the use of the image of the child soldier which would potentially appeal strongly to all levels. The use of such imagery could enable targeted strategies that deal with the circumstances at the different levels that produce the child soldier. The child soldier also vividly personalises the issue of small arms and personifies the damage that the issue of small arms can wreck on society-building efforts. The child soldier is also part of the growing concern with the exploitation of children, either as soldiers or as labourers. However, participants recognized that creating a symbol for the small arms issue risks oversimplifying the issue and focusing solutions on one area at the expense of other, equally important dimensions.

Coalition-building

A Canadian initiative could concentrate on building a coalition of like-minded actors. Members of such a coalition would include net contributors (those who can provide assistance) and net recipients (those who are facing the problems). More specifically, the members would consist of representatives of civil society and NGOs (human rights organisations, women's groups, children's rights organisations, the medical community, public health organisations) in addition to states and IGOs (UN, OAS, UNDP, WHO). Some of these organisations and groups are already active in certain aspects of the small arms issue and could have their initiatives strengthened by expanding the members and including those that are not currently active. To strengthen the coalition, opponents would also be encouraged to participate in order to build bridges and to bring them on side early in the process. A coalition could begin with like-minded actors characterised as responsible users of small arms who would focus on specific issues. Once such a basis is formed, the coalition could then expand and begin to tackle more difficult problems. For instance, supply issues could be addressed initially before advancing to demand issues which are more complex.

Membership in the coalition would be particularly essential for NGOs and other members of civil societies that are otherwise ignored or denied access by their own governments. In situations where groups are active in the small arms issue but their governments are not, participation by these groups in a coalition could be a critical factor in mobilising the government to get involved.

Coalition-building starts at the local level, between domestic constituencies and national governments, and then advances to the international level. Participants recognized that trade-offs and compromises are to be expected and decisions would need to be made about what compromises are be acceptable.

Norm-building

A Canadian initiative could consider a norm-building dimension in the process based in part on the stigmatisation of small arms. Specific stigmatisation would focus on irresponsible trafficking, the ease with which such dangerous and damaging weapons are being used as symbolised in the image of the child soldier, and on humanitarian costs of small arms: the impact of small arms on children, women, families, societies.

The International Criminal Court being established could also play a role in norm-building whereby, in considering matters relating to genocide and crimes against humanity, it would provide a venue for dealing with violators of an international agreement reached on small arms. Such violators would not necessarily include only those who use small arms in a prohibited manner, but also the suppliers who provide the weapons and who therefore would be considered accomplices to the crimes.

To make norm-building more viable, greater resources need to be allocated towards capacity-building. Such capacity-building would include; training in the proper use of small arms, having such training made mandatory for recipients of imported small arms and made a criterion for the approval of exports and for police forces and other law enforcement capacities in order to fight corruption among police; training in the creation of legislation on small arms; and in developing infrastructure to implement the norms.

Development

A Canadian initiative to deal with the small arms issue could include a strong development component. A development component fulfils the need to build capacity in the most vulnerable areas in order to strengthen the effectiveness of any responses to the problem of small arms. It also targets all actors involved (state, non-state) and their motivations (political, economic, criminal). A development component is particularly appealing because it is applicable not just to post-conflict conditions but also to non-conflict situations. It directly targets the necessary capacity-building of citizens, civil societies, states and of state-citizen relations. Development also highlights the importance of having the right mentality and admitting that small arms is a problem impinging on civil society development. It also serves as a starting point through which human security can be more directly linked to specific strategies and tactics. By strengthening civil society, small arms as an issue is dealt with as an intended consequence. Likewise, lessons from the broader development experience can be learned, specifically concerning the desired response to accusations of violating the principle of state sovereignty.

A development component could also introduce leverage to the issue by establishing criteria for receipt of development aid. Participants insisted however that, development aid should not be used as a weapon but as a system of checks and balances to encourage desired behaviour and outcomes. In certain regions of concern, developmental components of initiatives is already accepted, although such acceptance does vary in degree and among groups within society. Such support however, is significantly present in areas where the presence of small arms undermines traditional patterns of power and authority.

By including a development component, the critical economic dimension of the small arms issue is also given a higher profile. In certain areas, weak economic development accelerates the social and political instability that is associated with the problem of small arms. At the same time, areas destabilised by the consequences of small arms do not present the proper conditions for long-term economic activity and the attraction of foreign economic interests. Progress in economic development for one area can spread across borders and influence regional economic development.

Additional Considerations

A Canadian initiative could consider re-categorising countries with a role in small arms not as suppliers or consumers but as source countries (not necessarily producers or manufacturers of small arms alone), transit countries and end-use countries. In this way, policies could more

precisely reflect the type of country and aspect of the problem being targeted.

A Canadian initiative however, should not neglect the agent, i.e. small arms as a tool of abuse. It is not enough to attend only to the context in which the abuse takes place. A Canadian initiative should consider legitimate and illegitimate uses of the agent, given that the problem of small arms lies in their irregular and irresponsible use.

A Canadian initiative should concentrate on measures and policies that allow the problem of small arms to be managed and the damage created to be lessened.

A Canadian initiative should recognise the high degree of commitment required to deal with the issue.